

EX PARTE OR LATE FILED

## Satellite Users Coalition

May 21, 1999

Via Hand Delivery

Ms. Magalie Roman Salas  
Secretary, Federal Communications Commission  
The Portals, 445 12th Street, S.W.  
Washington D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: Ex Parte**  
***Direct Access to the INTELSAT System***  
**IB Docket No. 98-192, File No. 60-SAT-ISP-97**

Dear Ms. Salas:

AT&T Corp., MCI WorldCom, Inc., and Sprint Communications Company L.P. (collectively the "Satellite Users Coalition") on April 30, 1999 submitted the attached testimony to the Subcommittee on Communications of the Senate Committee on Commerce, Science, and Transportation. This testimony addresses the matters at issue in the above-referenced proceeding – i.e., direct access to the INTELSAT system, "fresh look" for INTELSAT contracts with COMSAT Corporation, and portability of INTELSAT capacity. The views of the Satellite Users Coalition are important information that the Commission should consider in this proceeding.

Please contact us if you have any questions regarding this matter.

Respectfully submitted,

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Attachment

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List A B C D E

## **Competition in the U.S. Market for INTELSAT Services**

### **Joint Testimony of AT&T, MCI WorldCom and Sprint ("Satellite Users Coalition")**

#### **Senate Committee on Commerce, Science, and Transportation Subcommittee on Communications April 30, 1999**

AT&T, MCI WorldCom and Sprint (the "Satellite Users Coalition") appreciate the opportunity to address the Subcommittee regarding the important issue of the development of competition in the U.S. market for INTELSAT services. The Commerce Committee has been a leader in encouraging competition in telecommunications services, and it should continue to lead in bringing competition to the market for INTELSAT services. The initial language of S. 376 accurately states the goals Congress should be pursuing:

to promote a fully competitive domestic and international market for satellite communications services for the benefit of consumers and providers of satellite services by fully encouraging the privatization of the intergovernmental satellite organizations, INTELSAT and INMARSAT, and reforming the regulatory framework of COMSAT Corporation.

We will make two central points. **First**, from the perspective of the Satellite Users Coalition and others who want to bring the benefits of immediate competition to consumers of INTELSAT services, direct access to the INTELSAT system should be implemented as soon as possible. S. 376 should be amended to make this possible. At least ninety-four countries have adopted some form of direct access, and it is past time for the United States to do the same. **Second**, AT&T, MCI WorldCom and Sprint

strongly support INTELSAT privatization, which should be carried out in a way that ensures maximum competition in the satellite services market.

### **Direct Access to INTELSAT**

S. 376 sets a deadline of January 1, 2002 for INTELSAT privatization, which provides more than enough time for completion of the complex privatization process. In the meantime, however, Congress can immediately enhance competition in the U.S. market for INTELSAT services by ensuring that direct access to INTELSAT is available in the United States.

Direct access means the ability of customers that are not Signatories of INTELSAT to purchase services directly from INTELSAT. AT&T, MCI WorldCom, Sprint and other U.S. companies own and operate INTELSAT earth stations, which we use to communicate directly with INTELSAT satellites. However, we are not allowed to buy from INTELSAT directly, but are forced to buy through a middleman, COMSAT, who plays no role in providing the services. For example, when a U.S. consumer living in Montana makes a call to India, the call travels from the consumer's local exchange carrier, to its long distance carrier's Point of Presence, to the long distance carrier's earth station, up to the INTELSAT satellite, and down to the Indian carrier's earth station. The key point is that the call is never touched by COMSAT.

INTELSAT began to permit direct access in 1992. Since then, at least ninety-four countries have made direct access available. Companies in those countries can now buy directly from INTELSAT. Furthermore, of the sixty-nine countries that joined the WTO Telecom Agreement, only the United States and three other countries included a reservation regarding exclusive access to INTELSAT. One of these three

countries, Brazil, has now implemented direct access. Indeed, while COMSAT fervently opposes direct access here in the United States, COMSAT itself has taken advantage of direct access abroad by becoming a direct access customer of INTELSAT in the United Kingdom and Brazil.

Let us repeat: while ninety-four countries now permit direct access, the United States has allowed COMSAT to retain a de facto monopoly on access to INTELSAT. In fact, this is the only monopoly in the U.S. telecommunications market that was not addressed by the Telecommunications Act of 1996.

The effects of COMSAT's monopoly are predictable: COMSAT charges large and unjustified mark-ups on INTELSAT services, and refuses to make available all of the INTELSAT services that its customers require. A few examples show the high costs of permitting COMSAT's monopoly to continue:

- FCC data shows that COMSAT's mark-ups over INTELSAT tariffs for international voice services average over 100 percent.
- In 1995, in an effort to force customers to commit to long-term contracts, COMSAT raised monthly rates for some services by roughly 500 percent, even though underlying INTELSAT rates did not change.
- COMSAT will not currently sell the preemptible leases that INTELSAT offers (that is, leases of satellite capacity that can be displaced by higher-priority services), requiring U.S. carriers and other customers to buy more expensive non-preemptible leases that they frequently do not need.

COMSAT's mark-ups and service restrictions also make it difficult for U.S. carriers to compete with foreign carriers that can buy INTELSAT capacity at lower prices, and to compete with COMSAT for customers in the United States. In fact, one

member of the Satellite Users Coalition recently lost a contract for international services because it could not offer competitive prices for INTELSAT communication channels.

In addition, COMSAT provides INTELSAT services directly to the federal government through COMSAT Government Systems, Inc. ("CGSI"). COMSAT and CGSI enjoy a significant advantage over other U.S. carriers for these government contracts, because COMSAT's average 68% mark-ups are just an inter-affiliate transfer for CGSI – but are a very real cost of business for carriers like AT&T, MCI WorldCom and Sprint. As a result, the federal government (and U.S. taxpayers) pays more to COMSAT and CGSI than it would if U.S. carriers could compete for government contracts on an even footing by purchasing space segment directly from INTELSAT. It is not surprising that Lockheed Martin is seeking to gain the benefits of CGSI's government contracts by immediately acquiring 100% of CGSI – before there is Congressional legislation authorizing the acquisition of COMSAT.

Another unfortunate side effect of COMSAT's monopoly is that many of its U.S. customers are beginning to route INTELSAT traffic through the facilities of foreign Signatories of INTELSAT (such as Teleglobe, the Canadian Signatory). This routing is inefficient, bypasses the U.S. earth station facilities in which U.S. carriers have large investments, and gives U.S. carriers a strong incentive to build future INTELSAT earth stations in other countries. The result is that investment in the United States decreases and U.S. jobs move abroad.

The monopoly role of COMSAT as a middleman for INTELSAT services is without parallel in today's telecommunications market, and is contrary to the freedom of contract that makes competition possible. INTELSAT is willing to offer services directly

to U.S. customers and AT&T, MCI WorldCom and Sprint want to buy those services, but we are not allowed to sign a contract to do so because of COMSAT's monopoly. If direct access removes these barriers, the result will be the same reduction in prices and expansion of service options that consumers have enjoyed for long distance and international services since the AT&T divestiture. The Satellite Users Coalition estimates that consumer savings from direct access would be more than \$1 billion over a ten year period.

Let us emphasize that we are appealing for competition, not attacking COMSAT. We believe that COMSAT, with its long experience in the satellite services market and great familiarity with INTELSAT and Inmarsat, will remain a strong competitor after direct access is implemented. COMSAT's investment in INTELSAT provides significant value independent of COMSAT's monopoly control over U.S. access. Indeed, COMSAT recently decided to increase its ownership in INTELSAT by approximately 2% to approximately 20%. As COMSAT CEO, Betty Alwine, explained:

INTELSAT is a successful satellite system with terrific assets, a proven track record and a strong future that will look even better once it is released from its current intergovernmental structure. For these reasons, COMSAT's increased share in INTELSAT makes good business sense, and the corporation expects to see a strong return on this investment.

The proposed merger between COMSAT and Lockheed Martin will also greatly strengthen COMSAT's position. As AT&T, MCI WorldCom and Sprint have told the FCC, we fully support approval of the Lockheed / COMSAT merger, so long as it is

accompanied by satellite reform legislation that mandates immediate implementation of direct access.

The FCC is now considering implementation of direct access in a rulemaking proceeding initiated this past fall. The vast majority of the participants in that proceeding agree that direct access is in the public interest, and agree with the FCC's initial conclusion that it has authority under existing law to implement direct access. Of course, Congress has authority to provide direction on both of these points, and we strongly urge this Subcommittee to adopt satellite legislation that requires the FCC to adopt direct access as soon as possible.

AT&T, MCI WorldCom and Sprint strongly disagree with the current provision of S. 376 that would prohibit direct access until completion of INTELSAT privatization. COMSAT may argue that implementation of direct access would somehow delay INTELSAT privatization by eliminating the incentive for INTELSAT to have access to the U.S. market, but this is simply not true. INTELSAT already has access to the U.S. market through the COMSAT bottleneck. Congress should not allow COMSAT by this argument to maintain its monopoly on INTELSAT access and to delay the immediate competitive benefits of direct access.

The commenters in the FCC direct access rulemaking also support two other important aspects of implementation of direct access – “fresh look” and portability of INTELSAT capacity. Fresh look, an approach that the FCC has applied in several previous cases where a monopoly market transitions to a competitive market, would allow COMSAT customers that have long-term contracts negotiated during COMSAT's monopoly to renegotiate those contracts without penalty during a limited fresh look

period. Portability of INTELSAT capacity would ensure that sufficient INTELSAT space segment capacity is available when a COMSAT customer chooses to purchase INTELSAT services directly from INTELSAT or a carrier other than COMSAT, by requiring COMSAT to relinquish the INTELSAT capacity it uses for that customer. Congress should direct the FCC to address fresh look and capacity portability when implementing direct access.

### **INTELSAT Privatization**

The Satellite Users Coalition is well qualified to address the question of INTELSAT privatization, for two reasons. **First**, we are among the largest U.S. purchasers of INTELSAT services. We say “purchasers of INTELSAT services” and not “customers of INTELSAT” because, without direct access, none of us is allowed to be a direct customer of INTELSAT. As very large purchasers of INTELSAT services, we have each become extremely familiar with INTELSAT and understand that INTELSAT has an important continuing role in international telecommunications. Therefore, we fully appreciate the benefits to carriers and consumers that will flow from INTELSAT privatization.

**Second**, AT&T, MCI WorldCom and Sprint each have a corporate history that provides some of the best available evidence that telecommunications competition works. The introduction of competition in the long-distance and international telecommunications markets has provided an environment in which each of us can thrive by offering lower prices and better service to customers. The same thing is just starting to happen in the U.S. market for local telephone services as a result of the



Telecommunications Act of 1996 and AT&T, MCI WorldCom and Sprint are actively pursuing that opportunity. In the satellite services market, competition is also developing. However, the continuing roles of INTELSAT, as an intergovernmental organization, and of COMSAT, the U.S. Signatory to INTELSAT, are competitive anomalies.

There is no serious disagreement that INTELSAT must be privatized. Privatization is strongly supported by Congress, the Executive Branch, COMSAT, the Satellite Users Coalition and all of the other major U.S. purchasers of INTELSAT services, and INTELSAT's major competitors, including PanAmSat and Loral/Orion. And INTELSAT itself has recently taken the first steps toward privatization by electing a new Director General, Conny Kullman, who campaigned on a pro-privatization platform, and by approving exploration of several privatization and restructuring options.

The devil, of course, is in the details. Although it is too soon to know the form INTELSAT privatization will take, we believe that any privatization must follow three important principles. **First**, it must replace the current governmental ownership structure of INTELSAT with a pro-competitive ownership structure. **Second**, privatization must eliminate the privileges, immunities and other advantages over its competitors that INTELSAT currently enjoys. **Third**, a privatized INTELSAT must operate like an ordinary private company with a fiduciary board of directors. A privatization that follows these principles will eliminate distortions in the satellite market caused by INTELSAT's existing structure and will ensure that INTELSAT is a fair competitor in a satellite services market that offers lower prices and improved services to customers.

## **Conclusion**

In conclusion, AT&T, MCI WorldCom and Sprint believe that any Congressional satellite legislation should provide for implementation of direct access to INTELSAT as soon as possible. The legislation should also promote a timely and pro-competitive privatization of INTELSAT that reforms the governmental ownership structure of INTELSAT, eliminates INTELSAT's existing privileges, and restructures INTELSAT to operate like an ordinary private company. Together, these measures will bring to U.S. carriers and consumers the benefits of competition in the market for INTELSAT services.